BATES WHITE
ECONOMIC CONSULTING

INITIAL COMMENTS ON THE SUMMER 2019 THROUGH SPRING 2020 RENEWABLE RESOURCE PROCUREMENT EVENTS

PURSUANT TO SECTION 16.111.5(o) OF THE ILLINOIS PUBLIC UTILITIES ACT

Presented to:
THE ILLINOIS COMMERCE COMMISSION

Prepared by

Vincent Musco
Kathryn Wroblewski

June 17, 2020

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY OF TOPICS

As the Illinois Commerce Commission's ("Commission") Procurement Monitor, we appreciate the opportunity to submit these comments in response to the Commission's May 1, 2020 "Public Notice of Informal Hearing (Request for Comments) Concerning Renewable Resources Procurement Events Which Were Held From Summer 2019 Through Spring 2020" ("Request for Comments"). We served the Commission as its Procurement Monitor for all renewable resource procurement events, as we have for several years.

The Illinois procurement process for electricity products – including those from renewable resources – continues to work well and to the benefit of Illinois ratepayers. In these comments, we summarize and comment on the results of the renewable resource procurement events held between summer 2019 and spring 2020.

II. SUMMARY OF RECENT RENEWABLE RESOURCE RFP RESULTS

We begin with a brief summary of the results of the renewable resource procurement events – or Request for Proposals ("RFPs") – held between summer 2019 and spring 2020,[1] which are shown below in Table 1.[2] In total, eight procurement events were held seeking renewable energy credits ("RECs") from brownfield solar resources, utility-scale wind resources, non-photovoltaic community generation resources and low-income community solar resources.[3] Each procurement was held in accordance with Commission Orders. We then highlight the White House's May 1, 2020 Executive Order and its potential impact on future Illinois procurements.

[1] The information in this report is publically available. For each of these procurements, we provided the Commission with a detailed, confidential report summarizing the results and our analysis of the competitiveness of the procurements.

[2] The schedule of renewable resource procurement events were held pursuant to the Commission-approved IPA's Long-Term Renewable Resources Procurement Plan.

[3] In addition to these procurement events, the IPA also initiated its Adjustable Block Program, which seeks to procure distributed and community solar generation. Bates White was not involved in this program or its "lotteries" and submits no comments on them here.

Table 1
Renewable Resource Procurement Events Held Between Summer 2019 and Spring 2020

Date	Buyer	Product
Summer 2019	Ameren	Brownfield Solar
Summer 2019	ComEd	Brownfield Solar
Summer 2019	MidAmerican	Brownfield Solar
Fall 2019	Ameren	Utility-Scale Wind
Fall 2019	ComEd	Utility-Scale Wind
Fall 2019	Ameren	Non-Photovoltaic Community Renewable Generation
Fall 2019	ComEd	Non-Photovoltaic Community Renewable Generation
Fall 2019	Illinois Power Agency	Low-income Community Solar Pilot

A. Background on the Fall 2019 Renewable Resource Procurement Events

The origin of these procurement events is Public Act 99-0906, also known as the "Future Energy Jobs Act," which was signed into law in December 2016 and became effective June 1, 2017. The Future Energy Jobs Act required, among other items, that the utilities hold "initial forward procurements." Specifically, the Commission approved (i) an Initial Forward Procurement for the delivery of one million renewable energy credits annually from new utility-scale wind projects and (ii) a Subsequent Forward Procurement for the delivery of two million renewable energy credits annually from new utility-scale solar projects and brownfield site photovoltaic ("PV") projects ("solar RECs"). These procurements were held in 2017 and 2018 and resulted in close to three million annual RECs from new wind projects by January 2022.[4]

Additionally, the Future Energy Jobs Act requires a series of thresholds to be met regarding the procurement of additional utility-scale wind and solar RECs.[5] Specifically, the Future Energy Jobs Act requires: (a) two million RECs from wind and two million RECs from solar facilities by the 2020-2021 service year; (b) three million wind and three million solar RECs by 2025-2026; and (c) four million wind and four million solar RECs by 2030-2031. [6]

[4] One of the winning bidders won only a portion of their bid and rejected the partial award.

[5] A REC represents the environmental attributes corresponding to one MWh of energy generated from renewable energy resources.

[6] IPA Long-Term Renewable Resources Procurement Plan, Final Plan, August 6, 2018. p 27-28.

The Future Energy Jobs Act also introduced a series of new measures to encourage and incentivize new community renewable generation, including the establishment of the Solar for All program.[7] Another aspect of the Future Energy Jobs Act was to introduce a competitive solicitation for community solar pilot projects that serve low-income residents and provide community benefits. The IPA's August 6, 2018 Long-Term Renewable Resources Procurement Plan ("IPA Plan")[8] proposed to conduct two new RFPs in 2019: a Low-Income Community Solar Pilot RFP to procure renewable energy credits ("RECs") from new solar community renewable energy projects[9] and a "Community Renewable Generation Program Forward Procurement"[10] to solicit interest from parties in "developing other potential community renewable generation projects that use other source of renewable energy such as wind, solar thermal, or biomass."[11] Unlike the Solar for All program, where developers apply to the Illinois Solar for All Program and receive an administratively determined REC price, the REC price was to be determined through a competitive bidding process.[12]

B. Summer 2019 Brownfield Solar RFPs

Since 2017, the IPA has held procurements inviting brownfield solar photovoltaic projects to participate. The Future Energy Jobs Act defines a brownfield site photovoltaic project as "photovoltaics that are: (1) interconnected to an electric utility…a municipal utility…a public utility…or an electric cooperative…; and (2) located at a site that is regulated by any of the following entities under the following programs: (A) the United States Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; (B) the United States Environmental Protection Agency under the Corrective Action Program of the federal Resource Conservation and Recovery Act, as amended; (C) the Illinois Environmental Protection Agency under the Illinois Site Remediation Program; or (D) the Illinois Environmental Protection Agency under the Illinois Solid Waste Program."

The initial forward procurements of Brownfield RECs in August 2017, March 2018, and April 2018 did not successfully procure RECs from brownfield resources. Notably, in those procurements, brownfield projects competed directly with utility-scale, non-brownfield projects. Given that brownfield projects are, all else equal, more costly than greenfield projects, brownfield projects were less likely to win in those procurements. Thus, in order to accelerate the development of brownfield site photovoltaic projects, the IPA held a procurement in

[7] Future Energy Jobs Act, Sec. 1-56.

[8] Illinois Power Agency, "Long-Term Renewable Resources Procurement Plan," August 6, 2018.

[9] IPA Plan, section 8.6.4.

[10] IPA Plan, section 5.8.4.

[11] IPA Plan, page 93.

[12] IPA Plan, page 171.

November 2018 that carved out a separate target of 80,000 annual RECs from brownfield resources. Despite this procurement approach, which allowed brownfield resources to compete only against other brownfield bids, the IPA did not successfully procure Brownfield RECs in the November 2018 RFP.

On March 28, 2019, the IPA filed a petition requesting that the Commission clarify the IPA's authority to conduct an additional RECs procurement from new brownfield site photovoltaic projects.[13] The Commission issued an order on April 26, 2019 that confirmed the IPA's authority to conduct an additional procurement event.[14]

Thus, in July 2019, Ameren, ComEd, and MidAmerican solicited bids[15] for the sale of RECs derived from new brownfield site photovoltaic resources. This RFP sought to procure 80,000 RECs annually from new brownfield site photovoltaic projects. The RECs would help each utility meet its obligations under the Illinois Renewable Portfolio Standard. The procurement sought RECs only—developers were free to sell the energy and capacity from their projects to other parties or into the PJM or MISO wholesale markets. The RFP sought 80,000 RECs annually from new brownfield site photovoltaic projects with an initial delivery of RECs no later than May 31, 2022 and an overall delivery period of fifteen-years.

The RFP successfully procured RECs from two bidders at an average winning price of $58.10/REC. As required, all winning bids were priced below calculated benchmark values. Given the construct of this procurement event, which procured RECs for all three utilities concurrently, the RECs were split among the three utilities in proportion to their 2020-2021 renewable resource budget. Ameren was allocated 29.33%, ComEd 70.34%, and MidAmerican 0.33%. The Commission approved the results of the RFP on August 1, 2019.[16]

C. Fall 2019 Utility-Scale Wind RFPs

In October 2019, Ameren and ComEd solicited bids for the sale of RECs derived from new utility-scale wind resources. The RECs would help each utility meet its obligations under the Illinois Renewable Portfolio Standard. The procurement sought RECs only—developers were free to sell the energy and capacity from their projects to other parties or into the PJM or MISO wholesale markets. The procurements sought one million RECs from utility-scale wind

[13] Docket 17-0838, IPA Petition for Approval, filed March 28th 2019.

[14] Docket 17-0838, ICC Approval Order, filed April 26th 2019 ("April 26 Order").

[15] Technically, all procurements are held by the Illinois Power Agency's ("IPA") procurement administrator, NERA Economic Consulting. For simplicity, we refer only to the utilities in the text of this document.

[16] Illinois Commerce Commission, "Public Notice of Successful Bidders and Average Prices, Illinois Power Agency July 2019 Forward Procurement of Renewable Energy Credits from New Brownfield Site Photovoltaic Projects, August 1, 2019."

resources[17] with an estimated date of first REC delivery by January 27, 2023 and proceeding for a 15-year period.

The RFP did not yield any bids that were compliant with the procurement process. As a result, we recommended that the Commission reject the results of the RFP. The Commission approved this recommendation to reject the results on October 30, 2019.[18] Despite this result, it is important to note that, since 2017, the Illinois procurement process has successfully procured about 3,000,000 annual RECs from new wind projects.[19]

D. December 2019 Non-Photovoltaic Community Renewable Generation RFPs

In December 2019, Ameren and ComEd solicited bids for the sale of RECs derived from new Non-Photovoltaic Community Renewable Generation Projects.[20] The RFP sought 50,000 RECs annually for a fifteen-year period with delivery of RECs within eighteen months of the ICC decision. Projects were required to be located in the state of Illinois and were limited to a nameplate capacity of 2,000 kW.

Like the December 2019 Low-Income Community Solar Pilot RFP below, this was a first-of-a-kind RFP in Illinois. Moreover, it was soliciting bids from uncommon sources, as most community renewable projects are solar PV; rarely do they include wind turbines, let alone the other categories of qualifying technologies (such as solar thermal, biodiesel, organic waste biomass, etc.). No bids were submitted under this RFP, and as there were no bids submitted, there was no need for the Commission to vote on the results of the RFP.[21]

E. December 2019 Low-Income Community Solar Pilot RFP

In December 2019, the Illinois Power Agency solicited bids for the sale of RECs from new low-income community solar pilot projects. The goal of this RFP was to procure RECs for a fifteen-year contract from projects that provide economic benefits to members of a low-income

[17] The Future Energy Jobs Act defines "Utility-scale wind project" as "an electric generating facility that: (1) generates electricity using wind; and (2) has a nameplate capacity that is greater than 2,000 kilowatts." Projects were required to be located in Illinois and be new, i.e., to have not commenced operations on or before June 1, 2017.

[18] Illinois Commerce Commission, "Public Notice of Successful Bidders and Average Prices, Illinois Power Agency October 2019 First Subsequent Forward Procurement of Renewable Energy Credits from New Utility-Scale Wind Projects, October 30, 2019."

[19] Ibid.

[20] IPA Act defines *non-photovoltaic* community renewable generation projects as projects powered by "wind…solar thermal, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, and hydropower that does not involve new construction or significant expansion of hydropower dams."

[21] Illinois Commerce Commission, "Public Notice of Successful Bidders and Average Prices, Illinois Power Agency December 2019 Procurement of Renewable Energy Credits from New Non-Photovoltaic Community Renewable Generation Projects, December 19, 2019."

community. Projects were not limited to size restrictions, but bids could not exceed the RFP budget of $20 million. Additionally, projects were required to result in economic benefits for the members of the community and the project must include a partnership with at least one community-based organization. The projects must have a date of first operation after June 1, 2017 and within 18 months of the ICC decision on the results of the RFP.

The procurement event acquired RECs from two new low-income community solar pilot projects at an average winning price of $72.02/REC. As required, all winning bids were priced below calculated benchmark values. The IPA is the counterparty to the contract, and winning bidders will receive payments for all RECs over the first ten years of the contract. RECs delivered and attributable to the initially subscribed shares of the project, as established during the first year of the contract, would be transferred to the IPA. The Commission approved the results of the RFPs on December 19, 2019.[22]

F. Bates White's Reports and Recommendations on All Renewable Resource Procurement Events

Following each of the procurements noted above, we provided a confidential report to the Commission that presented the procurement results and assessed bidder behavior and compliance with the rules. We recommended the Commission approve the results of the brownfield and low-income community solar pilot procurements. We did so for several reasons, including: (a) the RFP processes were open, fair, and transparent; (b) the procurement events were run in accordance with the requirements of the Acts and Commission-approved rules; (c) the benchmarks were properly calculated and applied to the bids; and (d) we did not identify concerns with the actions of any affiliates of Ameren, ComEd, or MidAmerican, as applicable. We recommended the Commission reject the results of the 2019 Wind RFP as the RFP did not yield any bids that were compliant with the procurement process. We made no recommendation on the results of the 2019 Community Non-Photovoltaic RFP as no bids were received.

Overall, the Illinois procurement events continue to succeed in leveraging the power of competition for Ameren, ComEd, and MidAmerican ratepayers in procuring renewable energy credits from a variety of technology types, size, and categorical description. The procurements continue to employ best practices to the benefit of ratepayers.

[22] Illinois Commerce Commission, "Public Notice of Successful Bidders and Average Prices, Illinois Power Agency December 2019 Procurement of Renewable Energy Credits from New Low-Income Community Solar Pilot Projects, December 19, 2019."

III. Potential Impact of May 1, 2020 Executive Order

On May 1, 2020, President Trump issued "Executive Order on Securing the United States Bulk-Power System,"[23] which declared a "national emergency" as it relates to bulk-power system electric equipment. The Order states:

> [T]he unrestricted acquisition or use in the United States of bulk-power system electric equipment designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries augments the ability of foreign adversaries to create and exploit vulnerabilities in bulk-power system electric equipment, with potentially catastrophic effects.[24]
>
> …
>
> I therefore determine that the unrestricted foreign supply of bulk-power system electric equipment constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, which has its source in whole or in substantial part outside the United States. This threat exists both in the case of individual acquisitions and when acquisitions are considered as a class. Although maintaining an open investment climate in bulk-power system electric equipment, and in the United States economy more generally, is important for the overall growth and prosperity of the United States, such openness must be balanced with the need to protect our Nation against a critical national security threat. To address this threat, additional steps are required to protect the security, integrity, and reliability of bulk-power system electric equipment used in the United States. In light of these findings, I hereby declare a national emergency with respect to the threat to the United States bulk-power system.[25]

The Executive Order goes on to prohibit:

> any acquisition, importation, transfer, or installation of any bulk-power system electric equipment (transaction) by any person, or with respect to any property, subject to the jurisdiction of the United States, where the transaction involves any property in which any foreign country or a national thereof has any interest (including through an interest in a contract for the provision of the equipment), where the transaction was initiated after the date of this order, and where the Secretary of Energy (Secretary), in coordination with the Director of the Office of Management and Budget and in consultation with the Secretary of Defense, the Secretary of Homeland Security, the Director of National Intelligence, and, as appropriate, the heads of other executive departments and agencies (agencies), has determined that:

---

[23] "Executive Order on Securing the United States Bulk-Power System," May 1, 2020, available at: https://www.whitehouse.gov/presidential-actions/executive-order-securing-united-states-bulk-power-system/.

[24] Ibid.

[25] Ibid.

(i) the transaction involves bulk-power system electric equipment designed, developed, manufactured, or supplied, by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; and

(ii) the transaction:

(A) poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States;

(B) poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the economy of the United States; or

(C) otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.[26]

The Executive Order is not fully prescriptive; for example, it does not identify the countries that would be considered "foreign adversaries." Many utilities are assessing the Order's impact,[27] and more clarity on the impact of the Executive Order is expected by October 1, 2020, the date by which multiple Executive Branch agencies – including the Department of Energy – are required to publish rules addressing the dictates of the Order.[28]

At this point, it is difficult to determine any certain impacts of the Executive Order on future Illinois procurements. It does appear clear that any "transaction" that was "initiated" before May 1, 2020, is exempt.[29] This would suggest that all prior procurements are exempt, as are any future procurements that involve only existing assets. The more difficult question is the impact on future procurements that solicit products from new resources, such as RECs from new utility-scale wind projects. It is possible that the requirements of the Executive Order will apply to such projects and/or components of such projects. As such, it may be necessary to consider edits to pro forma power purchase agreements to address the Executive Order's requirements. Moreover, until the full effect of the Executive Order is better known, procurements of new resources may experience uncertainty and associated risk premiums.

[26] Ibid.

[27] See, for example, Rivera-Linares, Corina, *T&D World*, "Utilities Continue to Assess Executive Order on Securing Bulk-Power System," May 4, 2020, available at: https://www.tdworld.com/transmission-reliability/article/21130362/utilities-continue-to-assess-executive-order-on-securing-bulkpower-system.

[28] "Executive Order on Securing the United States Bulk-Power System," May 1, 2020.

[29] Ibid.